

CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 132

Citations Affected: IC 34-6-2-88.3; IC 34-31-7.

Synopsis: Premises liability. Provides that if a person enters the premises of a nonprofit religious organization used for worship services with the permission of the nonprofit religious organization, the only duty the nonprofit religious organization has concerning the person is to: (1) warn the person of a hidden danger on the premises if a representative of the nonprofit religious organization has actual knowledge of the hidden danger; and (2) refrain from intentionally harming the person. Provides that if a person enters the premises of a nonprofit religious organization without the permission of the nonprofit religious organization, the only duty the nonprofit religious organization has concerning the person is to refrain from intentionally harming the person. Provides that if a customer who purchases childcare services or the customer's child enters premises that are primarily used for worship, that are owned, operated, or controlled by a nonprofit religious organization, and that are used for childcare purposes for which a fee is charged, the childcare provider and nonprofit religious organization have the duty to: (1) warn the customer or the customer's child of a hidden danger on the premises if a representative of the childcare provider or nonprofit religious organization has actual knowledge of the hidden danger; (2) refrain from intentionally harming the customer or the customer's child; and (3) inspect the premises for dangerous hazards and defects, and within a reasonable period of time, correct any hazard or defect. **(This committee report removes provisions requiring religious institutions to maintain premises so that the premises are safe. This committee report also adds language regarding premises liability for certain childcare organizations.)**

Effective: July 1, 2005.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 132 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 34-6-2-88.3 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2005]: **Sec. 88.3. "Nonprofit religious organization", for**
- 5 **purposes of IC 34-31-7, means an organization, a church, a body of**
- 6 **communicants, or a group organized primarily for religious**
- 7 **purposes and not for pecuniary profit that:**
- 8 (1) operates:
- 9 (A) under Section 501 of the Internal Revenue Code or the
- 10 Section 501 nonprofit status of the parent organization of the
- 11 organization, church, body of communicants, or group; and
- 12 (B) has a constitution, a charter, an article, or a bylaw
- 13 containing a clause that provides that upon dissolution, all
- 14 remaining assets must:
- 15 (i) be used for nonprofit religious purposes; or
- 16 (ii) revert to the parent organization for nonprofit religious
- 17 purposes; or
- 18 (2) operates as a place of worship and is recognized as a
- 19 nonprofit organization by the Internal Revenue Service.
- 20 SECTION 2. IC 34-31-7 IS ADDED TO THE INDIANA CODE AS
- 21 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 22 1, 2005]:

Chapter 7. Premises Liability of Religious Organizations

Sec. 1. This chapter applies to premises liability only.

Sec. 2. Except as provided in section 3 of this chapter, a nonprofit religious organization has only the following duties concerning persons who enter premises owned, operated, or controlled by the nonprofit religious organization and used primarily for worship services:

(1) If a person enters the premises with the actual or implied permission of the nonprofit religious organization, the nonprofit religious organization has a duty to:

(A) warn the person of a hidden danger on the premises if a representative of the nonprofit religious organization has actual knowledge of the hidden danger; and

(B) refrain from intentionally harming the person.

(2) If a person enters the premises without the actual or implied permission of the nonprofit religious organization, the nonprofit religious organization has the duty to refrain from intentionally harming the person.

Sec. 3. (a) As used in this section, "premises" means a part of a building that is:

(1) used primarily for worship services;

(2) owned, operated, or controlled by a nonprofit religious organization; and

(3) used for purposes of providing childcare services for which a fee is charged.

(b) If a customer who purchases childcare services or the customer's child enters the premises for the purpose of receiving fee based childcare services, with the actual or implied consent of the childcare provider or nonprofit religious organization, the childcare provider and nonprofit religious institution have the duty to:

(1) warn the customer or the customer's child of a hidden danger on the premises if a representative of the childcare provider or the nonprofit religious institution has actual knowledge of the hidden danger;

(2) refrain from intentionally harming the customer or the customer's child;

(3) inspect the premises for dangerous hazards and defects, and correct any dangerous hazard or defect within a reasonable period of time after becoming aware of the existence of the dangerous hazard or defect.

SECTION 3. [EFFECTIVE JULY 1, 2005] IC 34-31-7, as added by this act, applies only to a cause of action that accrues after June 30, 2005.

(Reference is to ESB 132 as reprinted April 1, 2005.)

Conference Committee Report
on
Engrossed Senate Bill 132

Signed by:

Senator Zakas
Chairperson

Representative Borders

Senator Lewis

Representative Kuzman

Senate Conferees

House Conferees